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PATENT

CASE # J6852(C)
UNUS #: 03-R223-EDG

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Customer No.: 000201
Applicant: Yuan et al.
Serial No.: 10/645,576
Filed: August 22, 2003
For: HIGH SKIN FRICTION COSMETIC CREAMS CONTAINING DISPERSED
ZINC OXIDE PARTICLES AS INORGANIC SUNSCREEN

EDGEWATER, NEW JERSEY 07020
July 8, 2004

PETITION TO SECURE FILING DATE AS OF MAILING DATE VIA EXPRESS MAIL
Under 37 CFR § 1.10(c)

Hon. Commissioner of Patents and Trademarks
Alexandria, VA 22313-1450

Sir:

PETITION

Applicants respectfully petition that the application described above be accorded the filing date on which the papers were sent "Express Mail Post Office to Addressee", mailing label no. ER 015 864 060 US on August 21, 2003.

Unilever Research, U.S., an affiliate of applicants' assignee, in conjunction with the United States Post Office in Edgewater, New Jersey established, on December 6, 1991, a corporate Express Mail Account no. X070246. A copy of Unilever's Express Mail procedure is enclosed which was followed in the instant case (Exhibit A).

Applicants have enclosed a copy of the Pick-up Service Statement (Exhibit B [Official Postal Service Form 5541]), signed by Post Office employee Tonya Johnson on August 21, 2003 at 3:45 p.m. and by Susan Martin who also signed the certification of Express Mail and whose verified declaration is enclosed herewith (Exhibit C). This statement lists the number of

07/13/2004 SSESHE1 00000046 121155 10645576
01 FC:1460 130.00 DA

J6852(C)

the document in question ER 015 864 060 US, which number is also listed on the transmittal sheet and return postcard used with the application, copies of which are also enclosed (Exhibit D). Applicants have also enclosed declarations from Dixie E. Cruz-Aleman, who prepared the transmittal letter (Exhibit E) and who placed the application and transmittal letter in an envelope bearing Express Mail Label no. ER 015 864 060 US US.

Applicants' Administrative Manager, Linda Horvath telephoned the Edgewater Post Office and spoke with Frank Zeevalk who is the Post Master. Mr. Zeevalk investigated the missing Express Mail mailing label receipt but was not able to locate what happened to the label or the document to which it was affixed. Linda Horvath's verified declaration to this effect is enclosed (Exhibit F).

This Petition is being filed with a copy of the pick-up service statement for Express Mail dated August 21, 2003 as well as a copy of the "Track and Confirm" record of the USPS showing that the item was delivered at 10:40 a.m. on August 22, 2003 in Arlington, VA. (See Exhibit B). The fact that the item was delivered August 22, 2003 further supports the date of actual mailing of August 21, 2003. The pick-up service statement for Express Mail and the "Track and Confirm" record of the USPS are being submitted as "other official USPS notation" as provided for under 37 CFR § 1.10(c). Exhibit B are true copies of "other official notation by the USPS" which are relied upon to show the date of deposit as required by 37 CFR § 1.10(c)(3).

In view of the facts in this matter, applicants' attorney respectfully requests that the petition be granted and that the actual Express Mail mailing date of August 21, 2003 be entered in the case.

EXHIBITS

Submitted herewith are the following exhibits:

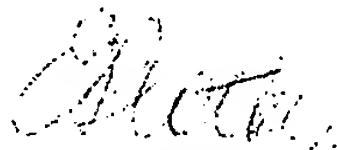
- (a) a copy of the Unilever Express Mail procedure;
- (b) a copy of the Pick-up Service receipt with the number ER 015 864 060 US, signed by Susan Martin, the Unilever Patent Department employee who deposited the package, and Tonya Johnson, the postal employee who received the package on August 21, 2003. Also attached is the USPS "Track and Confirm" shipment details for ER 015 864 060 US, showing delivery on August 22, 2003.
- (c) verified declaration signed by Susan Martin verifying that she actually deposited the documents with the U.S. Postal Service on August 21, 2003.
- (d) a copy of the transmittal letter which shows the executed Express Mail certificate and mailing label number ER 015 864 060 US; and return postcard.
- (e) verified declaration signed by Dixie E. Cruz-Aleman verifying the preparation of Exhibit (d) and verifying the placing of Exhibit (d) in an envelope bearing Express Mail mailing label no. ER 015 864 060 US.
- (f) verified declaration of Linda Horvath.
- (g) copy of 37 CFR § 1.10(a) and (c).

PETITION FEE

The petition fee (37 CFR § 1.17(h)) is to be paid as follows:

Charge \$130.00 to Deposit Account No. 12-1155. Please charge any additional fees or credit overpayment to the aforementioned Deposit Account. Triplicate copies of this letter are enclosed.

Respectfully submitted,



Ellen Plotkin
Reg. No. 36,636
Attorney for Applicant(s)

EP/dca
(201) 840-2253

EXPRESS MAIL PROCEDURE – UPDATED 6/25/03

The following is a summary of the procedure to be used when mailing patent-related correspondence to the USPTO:

1. A member of the Patent Department will telephone either the Postmaster or the Supervisor of the Edgewater Post Office at (201) 945-0348 to request an Express Mail Pickup. Unilever Site Security is then notified at Extension 2606 and informed of the Post Office's pending arrival later in the day. Security is also informed of the name of the PD member to contact for pickup.

The call to the Post Office should be placed no later than 12 Noon on those days requiring Express Mail pickup.

2. The Edgewater Post Office will pickup Express Mail envelopes on or about **3 P.M.** from the site Lobby.
3. A fee is charged per postal visit, currently \$12.95. A paper stamp is issued from the site's Mail Room Department and appended to the Pickup Service Statement prior to arrival of the pickup. A monthly bill is submitted to Unilever relative to the mailing expenses incurred.
4. Upon arrival of the postal employee at the site, Security calls the PD member. The PD member brings the Express Mail envelopes to the site Lobby.
5. Prior to the 3 P.M. Express Mail pickup, each Express Mail envelope is listed on the "Pickup Service Statement for Express Mail, Priority Mail or Parcel Post" Form PS 5541. The Customer Name and each Express Mail Serial Number are listed on the form. Once all the numbers are listed, a line is drawn through the balance of the "unused" item numbers.
6. The PD member should sign their name under the "Customer Signature" prior to or at the time of the pickup.
7. The Express Mail envelopes should be sorted according to the "Item No." listed on the pickup form **before** presenting to the postal employee. The postal employee should verify the serial numbers listed on the form against the Express Mail labels/envelopes presented to him for pickup. After doing so, the postal employee should clearly and legibly sign his/her name as well as the date and time of pickup. A sample copy is appended.
8. Generally, the completed Express Mail receipts for each envelope is returned to Unilever from the Post Office verifying the "date and time in" and based on the weight of the envelope, the fee charge.

The initial procedure for Express Mail delivery was set up on December 5, 1991 with Richard Myhren-Postmaster, Edgewater, NJ; Ronald Gilliam, Office Services Manager, Unilever; and members of the Unilever Patent Department. The Postmaster contacted the Newark Post Office and obtained the Corporate Express Account X070246 for Unilever.

REMEDY FOR CORRECTION TO FILING DATE

1. Upon receipt of the Official Filing Receipt and the postcard receipt, ADMIN reviews both to verify the correct filing date was accorded to the application. If there is a discrepancy, ADMIN prepares a "Request for Corrected Filing Receipt" for submission to the USPTO.

The request generally includes the following information/attachments:

- a) Pickup Statement with Express Mail item shown on form and the date and time of pickup.
 - b) The specific Express Mail Receipt related to the application filing.
 - c) Postcard receipt for the application filing indicating the date deposited.
 - d) PTO Transmittal Letter verifying the date deposited.
 - e) The Express Mail "confirmation statement" from the U.S. Postal Service website. This site tracks all Express Mail envelopes.
2. If Step #1 does not result in obtaining the "date deposited" filing date, a Petition may be required. The attorney of record will most likely need to provide the appended Express Mail Procedure as proof of our intention to obtain the "date deposited" filing date.

United States Postal Service

**Pickup Service Statement for
Express Mail, Priority Mail, or Parcel Post**



2. Customer Name and Address (No., Street, Ste. No., City, and State)

Unilever
Patent Department
45 River Road
Edgewater, NJ 07020

3.

Express Mail	Quantity
Priority Mail	Quantity
Parcel Post	Quantity

4. Custom Design Agreement (CDA)

CDA Number _____

5. Method of Payment

☐ Corporate Account No. _____ ☐ Federal Agency Account No. _____ ☒ Meter Strip or Stamps (Apply fee in Item 1 above)

6. Express Mail Label Numbers

Item No.	Express Mail Label Number	Item No.	Express Mail Label Number	Item No.	Express Mail Label Number
1	ER 015 864 609 US (MLH)	6		11	
2	ER 015 864 572 US (MLH)	7	ER 015 204 14405 (PA)	12	
3	ER 015 864 060 US (EP)	8		13	
4	ER 015 204 14405 (PA)	9		14	
5	ER 015 204 14405 (PA)	10		15	

7. Customer Signature

[Signature]

8a. USPS Signature

[Signature]

8b. Date of Pickup

8/2/96

8c. Time of Pickup

10:00 AM

[Home](#)

Track & Confirm

Shipment Details

You entered ER01 5864 060U S

Your item was delivered at 10:40 am on August 22, 2003 in ARLINGTON, VA 22202 to ALEXANDRIA. The item was signed for by J STECKEL.

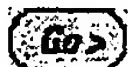
Here is what happened earlier:

- ARRIVAL AT UNIT, August 22, 2003, 10:30 am, MERRIFIELD, VA 22081
- ENROUTE, August 22, 2003, 10:16 am, MERRIFIELD, VA 22081

Notification Options

▶ Track & Confirm by email

[What is this?](#)



▶ Request Proof of Delivery

[What is this?](#)



POSTAL INSPECTORS
Preserving the Trust

[site map](#) [contact us](#) [government services](#)

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Track & Confirm

Enter label number:



[Track & Confirm FAQs](#)





PATENT
CASE # J6852(C)
UNUS #: 03-R223-EDG

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Customer No.: 000201
Applicant: Yuan et al.
Serial No.: 10/645,576
Filed: August 22, 2003
For: HIGH SKIN FRICTION COSMETIC CREAMS CONTAINING DISPERSED
ZINC OXIDE PARTICLES AS INORGANIC SUNSCREEN

EDGEWATER, NEW JERSEY 07020
July , 2004

VERIFIED CERTIFICATION OF EXPRESS MAILING DATE (37 CFR § 1.10(c))

Hon. Commissioner of Patents and Trademarks
Alexandria, VA 22313-1450

Sir:

I, SUSAN MARTIN, declare that:

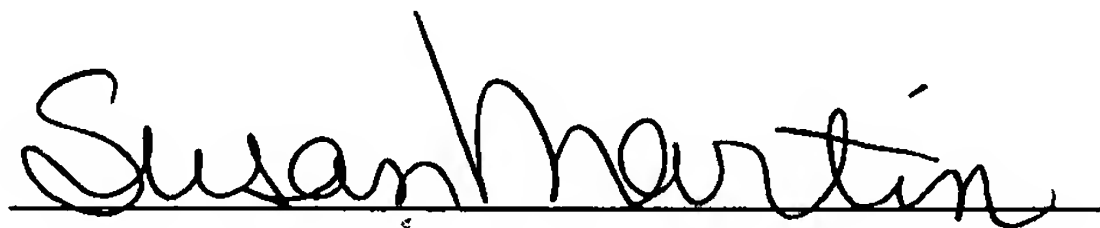
1. I prepared the Pick-up Service Receipt (copy attached) identifying the envelope by its Express Mail Label ER 015 864 060 US and I signed this receipt on August 21, 2003.

2. I personally delivered the envelope of paragraph 1 to a postal employee who signed the Pick-up Service Receipt of paragraph 2, with the name Tonya Johnson at 3:45 p.m. on August 21, 2003 as evidence that she had received the items listed on the Pick-up Service receipt, one of which was the envelope of paragraph 1 with the mailing label of ER 015 864 060 US.

J6852(C)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

SUSAN MARTIN

A handwritten signature in cursive script that reads "Susan Martin". The signature is written in black ink and is positioned above a horizontal line.

Dated: 7/8/04

United States Postal Service

Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post

2. Customer Name and Address (No., Street, Ste. No., City, and State)

Unilever
Patent Department
45 River Road
Edgewater, NJ 07020

3.

Express Mail

Quantity

Priority Mail

Quantity

Parcel Post

Quantity

4. Custom Design Agreement (CDA)

CDA Number

5. Method of Payment

☐ Corporate Account

No.

☐ Federal Agency Account

No.

☒ Meter, Strip or Stamps
(Apply fee in Item 1 above)

6. Express Mail Label Numbers

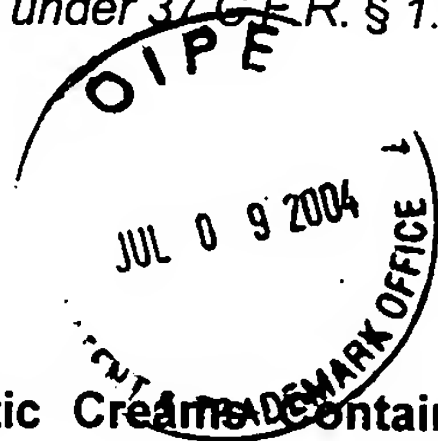
Item No.	Express Mail Label Number	Item No.	Express Mail Label Number	Item No.	Express Mail Label Number
1	ER 015 864 609 US (MLH)	6	EU939117472 (MT)	11	
2	ER 015 864 572 US (MLH)	7	ER 015 864 14405 (RAA)	12	
3	ER 015 864 060 US (EP)	8		13	
4	EU939117407 (MT)	9		14	
5	EU939117469 (MT)	10		15	

7. Customer Signature

Susan Martin

UTILITY PATENT APPLICATION TRANSMITTAL

(for new applications under 37 C.F.R. § 1.53(b))



Customer Number: 000201
Attorney Docket Number: J6852(C)
Applicant: Yonhui YUAN, Ritu VERMA
For: High Skin Friction Cosmetic Creams containing Dispersed Zinc Oxide Particles as Inorganic Sunscreen
Express Mail Label No.: ER 015 864 060 US
Date Deposited: August 21, 2003
UNUS #: 03-R223-EDG
Assignee: Unilever Home & Personal Care USA, Division of Conopco, Inc.

ER015864060US

To: Assistant Commissioner for Patents
Mail Stop: New Patent Application
Alexandria, VA 22313-1450

APPLICATION ELEMENTS

1. ☒ Fee Calculation (Box 13) and Authorization (Triplicate copies of this form are enclosed)
2. ☒ Specification and Claims (46) Total Pages
3. ☐ Formal Drawings () sheets
4. ☒ Executed Declaration
5. ☐ Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)
 - a. ☐ Computer Readable Copy
 - b. ☐ Paper copy (identical to computer copy)
 - c. ☐ Statement verifying identity of above copies.

ACCOMPANYING APPLICATION PARTS

6. ☒ Information Disclosure Statement (IDS)/PTO-1449
7. ☒ Copies of IDS citations
8. ☐ Preliminary Amendment
9. ☒ Two (2) Return Receipt Postcards
10. ☐ Certified Copy of Priority Document
11. ☐ The benefit under 35 U.S.C. § 119 is claimed of the filing of:
12. ☐ Other:
13. ☒ The FILING FEE (including any claims introduced or cancelled by Preliminary Amendment) is calculated below:

CLAIMS						
FOR	NUMBER ALLOWED	NUMBER FILED		NUMBER EXTRA	RATE	BASIC FEE \$750.00
Total Claims	20	20		0	X \$ 18.00	
Independent Claims	3	2		0	X \$ 80.00	
Multiple Claims		<u>Yes</u>	<u>No</u>		X \$270.00	
			X			
TOTAL FILING FEE . . .						\$750.00

14. [X] Charge \$ 750.00 to Deposit Acct. #12-1155. Triplicate copies of this letter are enclosed.
15. [X] The Commissioner is hereby authorized to charge any additional fees, which may be required, including all required fees under
[X] 37 C.F.R. § 1.16;
[X] 37 C.F.R. § 1.17;
[X] 37 C.F.R. § 1.18.
16. [X] **Correspondence Address:**
Customer Number: 000201

Respectfully submitted,



Ellen Plotkin
Attorney of Record
Reg. #36,636

EP/dca
(201) 840-2253

PLOTKIN

PATENTS

New Patent Application for:

ATTORNEY DOCKET NO.: J6852(C)
APPLICANT(S): Ritu VERMA , Yonghui YUAN

FOR: High Skin Friction Cosmetic Creams Containing Dispersed
Zinc Oxide Particles as Inorganic Sunscreen

Enclosed are:

Specification, Abstract, Claims (46 pages); Transmittal
Letter in triplicate charging \$750.00 to account # 12-1155;
Executed Declaration; Information Disclosure Statement;
PTO-1449 Form with cited documents; and 2 return post-
cards

UNUS NO.: 03-R223-EDG
Express Mail: ER 015 864 060 US
Date Mailed: August 21, 2003

03913 U.S. PTO
10/645576
08/22/03

Date should be 8/21/03

PATENT
CASE # J6852(C)
UNUS #: 03-R223-EDG



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicant: Yuan et al.
Serial No.: 10/645,576
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For: HIGH SKIN FRICTION COSMETIC CREAMS CONTAINING
DISPERSED ZINC OXIDE PARTICLES AS INORGANIC
SUNSCREEN

EDGEWATER, NEW JERSEY 07020
July , 2004

VERIFIED CERTIFICATION OF EXPRESS MAILING DATE (37 CFR § 1.10(c))

Hon. Commissioner of Patents and Trademarks
Alexandria, VA 22313-1450

Sir:

I, DIXIE E. CRUZ-ALEMAN, declare that:

1. I prepared the attached transmittal letter bearing Express Mail certificate number ER 015 864 060 US.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both,

J6852(C)

under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

DIXIE E. CRUZ-ALEMAN

Dixie E. Cruz-Aleman

Dated: July 8, 2004

UTILITY PATENT APPLICATION TRANSMITTAL

(for new applications under 37 C.F.R. § 1.53(b))

Customer Number: 000201
Attorney Docket Number: J6852(C)
Applicant: Yonhui YUAN, Ritu VERMA
For: High Skin Friction Cosmetic Creams Containing Dispersed Zinc Oxide Particles as Inorganic Sunscreen
Express Mail Label No. ER 015 864 060 US
Date Deposited: August 21, 2003
UNUS #: 03-R223-EDG
Assignee: Unilever Home & Personal Care USA, Division of Conopco, Inc.

ER015864060US

To: Assistant Commissioner for Patents
Mail Stop: New Patent Application
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APPLICATION ELEMENTS

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 - a. ☐ Computer Readable Copy
 - b. ☐ Paper copy (identical to computer copy)
 - c. ☐ Statement verifying identity of above copies.

ACCOMPANYING APPLICATION PARTS

6. ☒ Information Disclosure Statement (IDS)/PTO-1449
7. ☒ Copies of IDS citations
8. ☐ Preliminary Amendment
9. ☒ Two (2) Return Receipt Postcards
10. ☐ Certified Copy of Priority Document
11. ☐ The benefit under 35 U.S.C. § 119 is claimed of the filing of:
12. ☐ Other:
13. ☒ The FILING FEE (including any claims introduced or cancelled by Preliminary Amendment) is calculated below:

CLAIMS					
FOR	NUMBER ALLOWED	NUMBER FILED		RATE	BASIC FEE \$750.00
Total Claims	20	20	0	X \$ 18.00	
Independent Claims	3	2	0	X \$ 80.00	
Multiple Claims		<u>Yes</u>	<u>No</u> X	X \$270.00	
TOTAL FILING FEE . . .					\$750.00

14. ☒ Charge \$ 750.00 to Deposit Acct. #12-1155. Triplicate copies of this letter are enclosed.
15. ☒ The Commissioner is hereby authorized to charge any additional fees, which may be required, including all required fees under
- ☒ 37 C.F.R. § 1.16;
 - ☒ 37 C.F.R. § 1.17;
 - ☒ 37 C.F.R. § 1.18.
16. ☒ **Correspondence Address:**
Customer Number: 000201

Respectfully submitted,

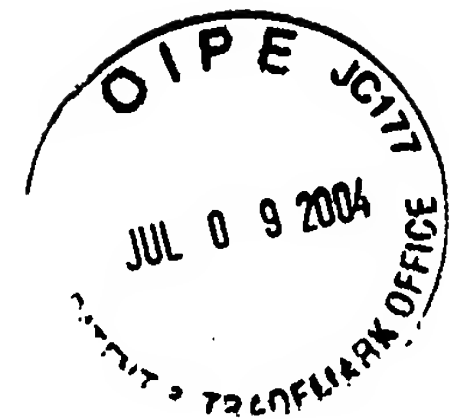


Ellen Plotkin
Attorney of Record
Reg. #36,636

EP/dca
(201) 840-2253

PATENT

CASE # J6852(C)
UNUS #: 03-R223-EDG



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Customer No.: 000201
Applicant: Yuan et al.
Serial No.: 10/645,576
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For: HIGH SKIN FRICTION COSMETIC CREAMS CONTAINING
DISPERSED ZINC OXIDE PARTICLES AS INORGANIC
SUNSCREEN

EDGEWATER, NEW JERSEY 07020
July , 2004

VERIFIED DECLARATION OF EXPRESS MAILING DATE (37 CFR § 1.10(c))

Hon. Commissioner of Patents and Trademarks
Alexandria, VA 22313-1450

Sir:

I, LINDA HORVATH, declare that:

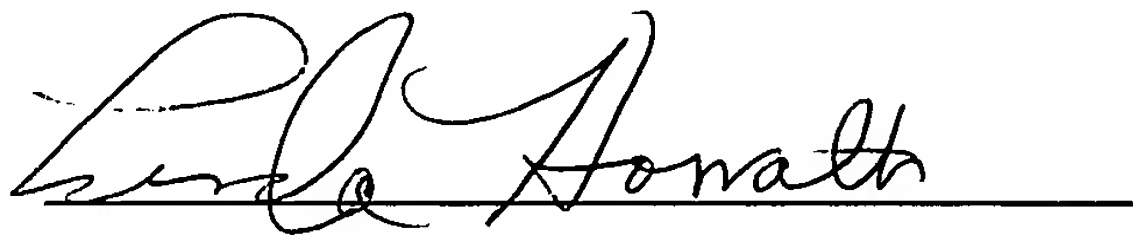
On September 24, 2003 I spoke to Post Master Frank Zeevalk of the U.S. Post Office in Edgewater, New Jersey, in order to try to locate the missing Express Mail receipt that was never returned by the Post Office. Mr. Zeevalk agreed to investigate the situation and contacted the Post Office in Kearny, New Jersey in order to locate the Express Mail receipt. During a subsequent phone call with the Post Master, Frank Zeevalk, on September 25, 2003, he advised me that he had been unable to locate the Express Mail receipt, and that it appeared to be lost along with other Express Mail receipts, due to mishandling by postal personnel. A copy of his fax to this effect is

J6852(C)

attached. Also attached is a copy of our listing of various items appearing on PS Form 5541 sent to the USPTO and picked up by the USPS on August 21, 2003.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

LINDA HORVATH

A handwritten signature in cursive script, appearing to read "Linda Horvath", is written over a horizontal line.

Dated: 7/8/04



UNILEVER RESEARCH
45 RIVER ROAD
EDGEWATER NJ 07020

RE: Express Mail

Please be advised of the following.

The USPS has a pick up service that Unilever Research uses on a frequent basis. It appears that on 2 occasions, Express Mail that was picked up at Unilever by Postal personell was mishandled. The Express Mail pieces were not scanned into our system as accepted and mailed.

Date 8-21-03

ER 015864609 US

ER 015864572 US

→ ER 015864060 US ←

EU 939117469 US

ER 939117472 US

ER 015864144 US

J6852 (C)

Date 8-25-03

ER 015864317 US

ER 015864334 US

EU 939117659 MT

EU 939117645 MT

Enclosed is form 5541 which lists the Express Mail pieces mailed , along with customer signature and USPS signature.

Any questions and or concerns, please call Kathleen Ianiro, Supervisor, at 201-945 -4297.

Sincerely,

Frank Zeevalk
Postmaster
Edgewater NJ 07020

475 L'ENFANT PLAZA SW
WASHINGTON DC 20260-

FAX:

USPTO ITEMS ON PS FORM 5541	Pick-Up Date	Express Mail Receipt #	Sender	Case No.	Pick-Up Fee
1	08/21/2003	ER 015864609 US	MLH	C4006(C)	\$12.50
2	08/21/2003	ER 015864572 US	MLH	J6819(C)	
3	08/21/2003	ER 015864060 US	EP	J6852(C)	
1	08/25/2003	ER 015864317 US	EAS	F6175(C)	\$12.50
2	08/25/2003	ER 015864334 US	EP	J6861(C)	
3	08/25/2003	EU 939117659 US	EP (MT)	T7070(V)	
4	08/25/2003	EU 939117645 US	AAB (MT)	C7682(V)	

paragraph (a) of this section, but received in the Patent and Trade-

Office, and the application is to be abandoned or the proceeding dismissed, terminated, or decided prejudicially, the correspondence will be considered timely if the party who received such correspondence:

1. Informs the Office of the previous filing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

2. Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

3. Includes a statement which attests, on a personal knowledge basis or on the satisfaction of the Commissioner, to the previous timely mailing or transmission. If the correspondence is sent by facsimile transmission, a copy of the sending unit's report concerning transmission may be used to verify this statement.

The Office may require additional evidence to determine if the correspondence was timely filed.

54502, Oct. 22, 1993; 58 FR 64154, Dec. 6, 1993, as amended at 61 FR 56447, Nov. 1, 1996; 53181, Oct. 10, 1997; 67 FR 523, Jan. 4,

Definitions.

1) A national application as used in this chapter means a U.S. application for patent which was either filed in the Office under 35 U.S.C. 111, or which entered the national stage from an international application after compliance with 35 U.S.C. 371.

A provisional application as used in this chapter means a U.S. national application for patent filed in the Office under 35 U.S.C. 111(b).

A nonprovisional application as used in this chapter means a U.S. national application for patent which was either filed in the Office under 35 U.S.C. 111(a), or which entered the national stage from an international application after compliance with 35 U.S.C. 371.

An international application as used in this chapter means an international application for patent filed under the Patent Cooperation Treaty to enter national processing at designated Office stage.

(c) A published application as used in this chapter means an application for patent which has been published under 35 U.S.C. 122(b).

(d)-(f) [Reserved]

(g) For definitions in interferences see §1.601.

(h) A *Federal holiday within the District of Columbia* as used in this chapter means any day, except Saturdays and Sundays, when the Patent and Trademark Office is officially closed for business for the entire day.

(i) National security classified as used in this chapter means specifically authorized under criteria established by an Act of Congress or Executive Order to be kept secret in the interest of national defense or foreign policy and, in fact, properly classified pursuant to such Act of Congress or Executive Order.

(Pub. L. 94-131, 89 Stat. 685; 35 U.S.C. 6, Pub. L. 97-247; 15 U.S.C. 1113, 1123)

[43 FR 20461, May 11, 1978, as amended at 47 FR 40139, Sept. 10, 1982; 47 FR 43275, Sept. 30, 1982; 49 FR 48451, Dec. 12, 1984; 60 FR 20220, Apr. 25, 1995; 61 FR 56447, Nov. 1, 1996; 62 FR 53181, Oct. 10, 1997; 65 FR 54657, Sept. 8, 2000; 65 FR 57051, Sept. 20, 2000]

§1.10 Filing of correspondence by "Express Mail."

(a)(1) Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed with the USPTO on the date of deposit with the USPS, except for documents described in the following paragraphs (a)(1)(i) and (ii) of this section:

(i) Trademark applications filed under section 1 or 44 of the Trademark Act, 15 U.S.C. 1051 and 1126.

(ii) Other documents for which a Trademark Electronic Application System (TEAS) form exists:

(A) Amendment to allege use under section 1(c) of the Trademark Act, 15 U.S.C. 1051(c);

(B) Statement of use under section 1(d) of the Trademark Act, 15 U.S.C. 1051(d);

(C) Request for extension of time to file a statement of use under section

1(d) of the Trademark Act, 15 U.S.C. 1051(d);

(D) Affidavit of continued use under section 8 of the Trademark Act, 15 U.S.C. 1058;

(E) Renewal request under section 9 of the Trademark Act, 15 U.S.C. 1059; and

(F) Requests to change or correct addresses.

(2) The date of deposit with USPS is shown by the "date in" on the "Express Mail" label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the USPTO receipt date as the filing date. See §1.6(a).

(b) Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. The paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon. See paragraphs (c), (d) and (e) of this section.

(c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the

paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

(d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

(e) Any person mailing correspondence addressed as set out in §1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that

the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

(f) The Office may require additional evidence to determine if the correspondence was deposited as "Express Mail" with the USPS on the date in question.

[61 FR 56447, Nov. 1, 1996 as amended at 62 FR 53181, Oct. 10, 1997; 67 FR 36101, May 23, 2002]

RECORDS AND FILES OF THE PATENT AND TRADEMARK OFFICE

§1.11 Files open to the public.

(a) The specification, drawings, and all papers relating to the file of an

abandoned published application, except if a redacted copy of the application was used for the patent application publication, a patent, or a statutory invention registration are open to inspection by the public, and may be obtained upon the payment of the fee set forth in §1.19(b)(2). See also §1.19(b)(2) for trademark files.

(b) All reissue applications, applications in which the Office has granted a request to open the application to inspection by the public, and related papers in the application file, are open to inspection by the public, and copies may be furnished upon the payment of the fee therefor. The fee for reissue applications, other than reissued prosecution applications, is \$1.53(d) of reissue applications, announced in the *Official Gazette*, shall include a showing of the filing date, reissue application number, title, and subclass, name of the inventor, name of the owner of record, name of the attorney or agent of record, and the group to which the reissue application is assigned.

(c) All requests for reexamination which the fee under §1.20(c) has been paid, will be announced in the *Gazette*. Any reexaminations at the initiative of the Commissioner pursuant to §1.520 will also be announced in the *Official Gazette*. The announcement shall include at least the date of request, if any, the reexamination request control number or the Commissioner initiated order control number, patent number, title, class and subclass, name of the inventor, name of the patent owner of record, and the group to which the reexamination is assigned.

(d) All papers or copies thereof relating to a reexamination proceeding which have been entered of record in the patent or reexamination file are open to inspection by the public, and copies may be furnished upon the payment of the fee therefor.

(e) The file of any interference proceeding involving a patent, a statutory invention registration, a reissue application, an application on which a patent has been issued or which has been published as a statutory invention registration, is open to inspection